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To: Governor Haley Barbour
From: Buddy Bynum
Re: Medicaid statute
Number of pages: 3, including cover page

Governor:

As per Amanda, the Medicaid statute is 43-13-117. Here is her analysis of the support for the Governor's authority to make cuts in Medicaid in FY10:

The specific section out of § 43-13-117 is at the end of the statute, but I pulled the specific section out of the full text, and it's below. I attached a pdf version of the statute to this email; the specific section is on page 11 of 11 of the attachment.

... The executive director shall keep the Governor advised on a timely basis of the funds available for expenditure and the projected expenditures. If current or projected expenditures of the division are reasonably anticipated to exceed the amount of funds appropriated to the division for any fiscal year, the Governor, after consultation with the executive director, shall discontinue any or all of the

payment of the types of care and services as provided in this section that are deemed to be optional services under Title XIX of the federal Social Security Act, as amended, and when necessary, shall institute any other cost containment measures on any program or programs authorized under the article to the extent allowed under the federal law governing that program or programs. However, the Governor shall not be authorized to discontinue or eliminate any service under this section that is mandatory under federal law, or to discontinue or eliminate, or adjust income limits or resource limits for, any eligibility category or group under Section 43-13-115. It is the intent of the Legislature that the expenditures of the division during any fiscal year shall not exceed the amounts appropriated to the division for that fiscal year. ...

Our argument is that the projected expenditures of the division ("DOM") are reasonably anticipated to exceed the amount of funds appropriated to DOM for FY10. Either DOM will have to pay '09 bills in FY10, and thus DOM will not have sufficient '10 appropriated funds to pay '10 expenditures, or the Legislature underfunds DOM for FY10, and the projected expenditures will exceed the appropriated funds for FY10. The Governor is then required to discontinue "any or all" payments of optional services (minimal cut) and then institute other cost containment measures on any other programs (cut hospitals).

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